

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES E. WOLF,

Petitioner,

v.

CASE NO. 02-CV-70839-DT
HONORABLE GEORGE CARAM STEEH

RAYMOND BOOKER,

Respondent.

ORDER DENYING PETITIONER'S MOTIONS
FOR CONSIDERATION OF HIS MOTION FOR RESENTENCING

This closed habeas corpus case is pending before the Court on Petitioner's motion to decide his motion for resentencing [Doc. #57, Oct. 3, 2005] and Petitioner's motion for reconsideration of his motion for resentencing [Doc. #58, Oct. 3, 2005]. Petitioner initiated this action on March 8, 2002, by filing a habeas corpus petition, which attacked his state conviction for first-degree criminal sexual conduct. The Court dismissed the habeas petition on October 8, 2002, because Petitioner had failed to comply with the statute of limitations.

On July 14, 2004, Petitioner filed a "motion for resentencing due to jurisdictional defect." The Court ultimately transferred the motion to the Court of Appeals as a request for an order authorizing this Court to consider a second or successive habeas petition. *See* 28 U.S.C. § 2244(b)(3)(A) (stating that, "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application"). On September 23, 2005, the Court of Appeals denied Petitioner's request to file a second habeas petition.

Petitioner subsequently filed the pending motions, which seek to have the Court consider his motion for re-sentencing. Petitioner continues to attack his conviction by making a jurisdictional argument. The Court of Appeals, however, has denied permission to file a second or successive habeas petition. This Court, therefore, has no jurisdiction to consider Petitioner's motion for re-sentencing. *See In re Sapp*, 118 F.3d 460, 461 (6th Cir. 1997) (holding that the district court has no jurisdiction to consider a challenge to the manner of an impending execution because the challenge was an unauthorized successive habeas petition). Accordingly, Petitioner's motions to hear and to reconsider his motion for resentencing [Docs. 57 & 58] are DENIED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: November 8, 2005

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on November 8, 2005, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk